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**U.S. COURT OF APPEALS AFFIRMS CONVICTION OF TWO MEN ON CHARGES  
OF VIOLATING THE ARMS EXPORT CONTROL ACT**

BALTIMORE, MD - Thomas M. DiBiagio, United States Attorney for the District of Maryland announced today that the U.S. Court of Appeals for the Fourth Circuit has affirmed the April, 2002 convictions of Eugene You-Tsai Hsu, 61, of Blue Spring, Missouri and David Tzuwei Yang, of Compton, California on charges of conspiracy to violate the Arms Export Control Act. Hsu and Yan challenged their convictions on the grounds that the Arms Export Control Act is unconstitutionally vague as applied to them and that the District Court erred in refusing to instruct the jury on entrapment. The Appeals Court found, in an opinion published on April 14, 2004, that their contentions were without merit and affirmed the convictions.

The case arose in 2001, when the then U.S. Customs Service, received information that Eugene Hsu was attempting to acquire two KIV-7HS devices used to secure classified communications from a Columbia, Maryland company called Mykotronx for shipment to a customer in China. The KIV-7HS unit is a "type1" encryption device meaning that its export is more strictly controlled than most United States Munitions List articles. The KIV-7HS units and technology

could not be lawfully exported from the United States without first obtaining an export license from the Office of Defense Trade Controls of the United States Department of State. In addition, sale of this encryption technology requires prior approval by the National Security Agency.

In early May, 2001, U.S. Customs undercover agents made contact with Hsu, a naturalized citizen of the United States and informed him by correspondence and telephone about the export requirements for the technology that he was seeking, and that the U.S. Department of State would not issue a license for this technology if the end user was the People's Republic of China. Nevertheless, over the next few months, Hsu negotiated the purchase of the units and introduced undercover agents to a middleman buyer, a Singapore business man named Wing Chung Ho, aka Charlson Ho. Ho introduced David Yang of Dyna Freight Inc. to the undercover agent as his freight forwarder. Ho arranged with the undercover agent that Yang would handle the shipment/export of the units from the U.S. to Ho in Singapore, after which Ho would transfer the units and other electronic technology to the People's Republic of China.

"Protecting the United States' superiority with respect to encryption technology continues to be critical to our military, national security and economic well-being. The unauthorized acquisition of this kind of strategically significant technology would provide an obvious advantage to all foreign encryption users and developers, including our enemies. This Office will vigorously prosecute anyone who violates the Arms Export Control Act and will see to it that every available resource is dedicated to protecting our country from those who would profit from the illegal export of our arms technology," said U.S. Attorney Thomas M. DiBiagio.

This case was investigated by the Department of Homeland Security, Bureau of Immigration and Customs Enforcement, formerly the U.S. Customs Service, and was argued in the U.S. Court of Appeals by Assistant U.S. Attorney Kathleen O. Gavin.